

CIVIL SERVICE COMMISSION MINUTES

APRIL 7, 2004

A meeting of the Civil Service Commission was held at 2:30 p.m., in Room 358 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Marc Sandstrom
A.Y. Casillas
Barry I. Newman
Francesca Krauel

Absent was:

Gordon Austin

Comprising a quorum of the Commission

Support Staff Present:

Larry Cook, Executive Officer
Ralph Shadwell, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

**Approved
Civil Service Commission**

April 21, 2004

COUNTY OF SAN DIEGO
CIVIL SERVICE COMMISSION MINUTES
APRIL 7, 2004

1:30 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway, San Diego, California 92101

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
<u>2,6,9,11</u>		<u>7</u>	<u>5</u>

COMMENTS: Motion by Newman to approve all items not held for discussion; seconded by Casillas. Carried.

CLOSED SESSION AGENDA
County Administration Center, Room 458
(Notice pursuant to Government Code Sec. 54954.2)
Members of the public may be present at this location to hear the announcement of the closed session agenda.

A. Commissioner Sandstrom: Everett Bobbitt, Esq., on behalf of **2004-02***, Deputy Sheriff-Detentions/Courts, appealing an Order of Termination and Charges from the Sheriff's Department.

B. Commissioner Newman (Interim Verbal Report): Monica T. Guizar, Esq., on behalf of **Laura Dizon**, former Eligibility Technician, appealing a Final Notice of Automatic Separation for Failure to Return After Leave from the Health and Human Services Agency.

C. Commissioner Newman (Interim Verbal Report): Donna Clark-Richardson, SEIU Local 2028, on behalf of **Marjorie Bramwell**, Public Health Nurse II, appealing a Final Order of Suspension and Charges from the Health and Human Services Agency.

D. PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: Executive Officer

PUBLIC EMPLOYMENT
Title: Executive Officer

OPEN SESSION AGENDA
County Administration Center, Room 358

NOTE: Five total minutes will be allocated for input on Agenda items unless additional time is requested at the outset and approved by the Commission President.

MINUTES

1. Approval of the Minutes of the regular meeting of March 17, 2004.

Approved.

CONFIRMATION OF ASSIGNMENTS

2. Commissioner Newman: Donna Clark-Richardson, SEIU Local 2028, on behalf of **Bernardo Quillope**, former Intermediate Clerk, appealing a Final Order of Termination and Charges from the Assessor/Recorder/County Clerk.

RECOMMENDATION: Deny Request. See Staff Report.

Mr. Quillope addressed the Commission stating that he understands the immaturity of his previous actions, however he is a hard worker and views the County of San Diego as a career move.

William Songer, Sr. Deputy County Counsel, on behalf of the Department reminded the Commission that this matter is not about whether Mr. Quillope should have been hired, or rehired, but rather that his appeal to the Order of Termination is more than six months untimely. Barbara Zell also addressed the Commission on behalf of the Department.

Motion by Newman to accept staff recommendation; seconded by Casillas. Carried. Appeal denied.

3. Commissioner Casillas: **Rafael Lopez**, Analyst II, appealing a Final Order of Demotion and Charges (from Administrative Analyst III) from the Health and Human Services Agency (HHSA).

Confirmed.

4. Commissioner Austin: Richard H. Castle, Esq., on behalf of **Peter Dodge**, Deputy District Attorney III, appealing an Amended Final Order of Suspension and Charges from the Office of the District Attorney.

Confirmed.

WITHDRAWALS

5. Commissioner Casillas: **Gail Dunford**, Detention Processing Technician, appealing an Order of Pay Step Reduction and Charges from the Sheriff's Department.

Withdrawn.

DISCIPLINE

Findings

6. Commissioner Sandstrom: Everett Bobbitt, Esq., on behalf of **2004-02***, Deputy Sheriff-Detentions/Courts, appealing an Order of Termination and Charges from the Sheriff's Department.

FINDINGS AND RECOMMENDATIONS:

Employee was charged with Cause I - Dishonesty; and Cause II - acts incompatible with and/or inimical to the public service.

Appellant 2004-02 appealed a termination for alleged dishonesty during an investigation of misconduct by a co-worker. Appellant was a newly hired Deputy Sheriff-Detentions assigned to Team One at George Bailey Detention Facility. The salient facts underlying the appeal were largely undisputed. Employee initially lied to his supervisor when asked about an incident involving his co-worker. However, when formally interviewed a week later during the investigation of the incident, he told the truth. (The co-worker was terminated by the Department and the termination, which was appealed, was upheld by this Commission.) In the present appeal hearing, the evidence indicated that Appellant, the junior member of Team One, was pressured into lying to protect his co-worker. However, his subsequent decision to tell the truth helped the Department reform Team One, which had come to be known as a rogue team. Accordingly, there was sufficient mitigation to modify the discipline from termination to a ninety-day suspension.

Employee is guilty of Cause I and Cause II. It is therefore recommended that the Order of Termination and charges be reduced to a ninety-day suspension without pay; that Employee be awarded back pay, benefits, and interest from the date of termination until the date of the Commission decision, minus any wages he received from outside employment and minus the ninety-day suspension referred to above; that the Commission read and file this report; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Sandstrom to approve Findings and Recommendations; seconded by Krauel.

Commissioner Newman stated that the Sheriff's Department has always considered honesty as a key factor in the employment of its peace officers. While respecting the hearing officer's findings in this matter, Commissioner Newman stated that he would be abstaining from this vote due to the initial dishonesty of employee.

AYES:	Sandstrom, Casillas, Krauel
NOES:	None
ABSTENTIONS:	Newman
ABSENT:	Austin

Motion carried.

DISCRIMINATION

Complaints

7. **Tommy V. Johnson**, Personnel Aide, Department of General Services, alleging national origin, color, race and sex discrimination by the HHSA.

RECOMMENDATION: Assign an Investigating Officer and concurrently appoint the Office of Internal Affairs to conduct an investigation and report back.

Staff recommendation approved. Commissioner Krauel appointed.

SELECTION PROCESS

Findings

8. **Valley P. Coleman**, appeal of removal of his name by the Department of Human Resources from the employment list for Deputy Sheriff-Detentions/Courts.

RECOMMENDATION: Ratify. Appellant has been successful in the appellate process provided by Civil Service Rule 4.2.2.

Item No. 8 ratified.

OTHER MATTERS

Ratification of Medical Provider

9. Ratification of **Karl M. Jacobs, M.D.** as an additional name to the list of medical providers to be used for fitness for duty evaluations at the request of the Department of Human Resources.

RECOMMENDATION: Ratify Provider.

Commissioner Newman asked whether DHR provides the Commission with background information on the medical providers, or whether the Commission merely lists and acknowledges the addition. Larry Cook, Executive Officer explained that staff relies on DHR to administer this program and normally background information is not provided to the Commission. Commissioner Newman requested that staff consider requesting background information or a resume at the very least, to be added to all staff reports ratifying additional physicians to the list of medical providers, especially in light of the fact that the Commissioners rely on a physician's expert testimony during CSC hearings.

Item No. 9 ratified.

Extension of Temporary Appointments

10. Department of Agriculture Weights & Measures

2 Insect Detection Specialists I (Billy Waldrop, David Garrison)

Item No. 10 ratified.

11. Office of the Medical Examiner

1 Principal Administrative Analyst (Janet Enright)

RECOMMENDATION: Ratify Item Nos. 10 & 11.

Commissioner Krauel questioned the role of the Commission in ratifying extensions of temporary appointments. She stated that the word "ratified" assumes responsibility. Commissioner Newman requested staff to trail this matter until the Department can explain why it is "awaiting budget approval for a permanent position" since September 19, 2003. Since a Department representative was not available to answer Commissioner Newman's question, this matter was continued. Pursuant to Commissioner Krauel's query, Larry Cook, Executive Officer, will be briefing the Commissioners on this procedure and the role of the Commission in this process.

Motion by Newman to continue this matter; seconded by Krauel. Carried.

12. Public Input.

ADJOURNMENT: 3:23 p.m.

NEXT REGULAR MEETING OF THE CIVIL SERVICE COMMISSION WILL BE MAY 5, 2004.

*The identity of the peace officer is held confidential per Penal Code Section 832.7 (San Diego Police Officers' Association, et al. v. City of San Diego Civil Service Commission).